

ORIGINAL

CIVIL RIGHTS COMPLAINT  
42 U.S.C. § 1983

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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Abdul Rahim Howard #72346-053  
Full name of plaintiff/prisoner ID#

**CV 15 4549**

Plaintiff,

JURY DEMAND

YES ☒ NO ☐

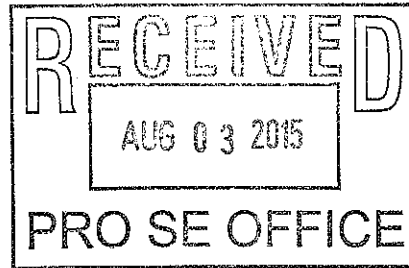
-against-

Dewayne Hendrix,  
Marcus Branch,  
A. Cruz

**GARAUTS, J.**

Enter full names of defendants  
[Make sure those listed above are  
identical to those listed in Part III.]

**BLOOM, M.J.**



Defendants.  
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I. Previous Lawsuits:

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? Yes ( ) No (☒)
- B. If your answer to A is yes, describe each lawsuit in the space below (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiffs: \_\_\_\_\_

Defendants: \_\_\_\_\_

2. Court (if federal court, name the district;  
if state court, name the county)

3. Docket Number: \_\_\_\_\_

4. Name of the Judge to whom case was assigned: \_\_\_\_\_

5. Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?)  
\_\_\_\_\_

6. Approximate date of filing lawsuit: \_\_\_\_\_

7. Approximate date of disposition: \_\_\_\_\_

II. Place of Present Confinement: Metropolitan Detention center  
P.O. Box 329002 Brooklyn, N.Y. 11232

A. Is there a prisoner grievance procedure in this institution? Yes (✓) No ( )

B. Did you present the facts relating to your complaint in the prisoner grievance procedure? Yes (✓) No ( )

C. If your answer is YES,

1. What steps did you take? I filed my first grievance I  
was told it was lost, I filed the second one and was told  
I had to submit the first so I went to the persons that were  
in charge of the matter that dealt with my issues  
2. What was the result? My concerns and issues  
were disregarded.

D. If your answer is NO, explain why not \_\_\_\_\_  
\_\_\_\_\_

E. If there is no prison grievance procedure in the institution, did you complain to prison authorities? Yes ( ) No ( )

F. If your answer is YES,

1. What steps did you take? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. What was the result? \_\_\_\_\_  
\_\_\_\_\_

III. Parties:

(In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff Abdul Rahim Howard # 72346-053  
Metropolitan Detention Center  
Address P.O. Box 329002 Bklyn, N.Y. 11232

(In item B below, place the full name and address of each defendant)

B. List all defendants' names and the addresses at which each defendant may be served.  
Plaintiff must provide the address for each defendant named.

Defendant No. 1

Dewayne Hendrix  
Metropolitan Detention Center  
~~P.O. Box~~ 80 29<sup>th</sup> St Bklyn, N.Y. 11232

Defendant No. 2

Marcus Branch  
Metropolitan Detention Center  
80 29<sup>th</sup> St Brooklyn, N.Y. 11232

Defendant No. 3

A. Cruz  
Metropolitan Detention Center  
80 29<sup>th</sup> St Brooklyn, N.Y. 11232

Defendant No. 4

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant No. 5

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Make sure that the defendants listed above are identical to those listed in the caption on page 1].

IV. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 ½ by 11 sheets of paper as necessary.)

My rights under The Religious Freedom Restoration Act and The Free exercise Clause of The First Amendment and my rights Under The Equal Protection Clause was Violated. In May of 2015 a memo was put out about the coming of Ramadan and it addressed many issues. In the beginning of June 2015 a muslim Chaplain that was at the institution temporarily Came to the Units and stated that The Captain did not want anyone to move and that microwaves would be brought to the Units. I then spoke to Captain A. Cruz in person in which he stated the information I received was correct. A couple of days later Someone Came to the Units Stating we had to move in order to participate in Ramadan I then Emailed my Concerns  
(SEE continuation sheet)

IV.A

If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

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## Continuation Sheet

To Captain Cruz on June 12, 2015 six days before the Start of Ramadan and my Concerns were never addressed (see exhibit A) when Ramadan started the First night I was given a Sahar bag (breakfast bag) to eat before Sunrise and that morning myself and other muslims were allowed out to make the Morning prayer. The next day we were told NO meals would come up for us and we would not be allowed to participate in Ramadan. We kept trying to speak with someone to explain to us why are our rights being violated because we did not move across the hall. We were told there was not enough microwaves. and we started to speak upon how when the Jewish people did not move they were allowed their meals and was still allowed to attend their Services. again our concerns were ignored.

On June 25, 2015 I addressed my Concerns to the Chaplain and later that day I received a disturbing response (see exhibit B) On June 26, 2015 I responded to the message and again I received a response (see exhibit C) I then filed a BP-8 administrative remedy and submitted it to the Counselor. A couple of days later I was told that he had misplaced the BP-8 to refile I then filed a BP-9 warden and the next day it was given back and was told I had to file a BP-8 and that Ramadan was almost over and that it would be a waste of time that Ramadan would be over before I receive a response.

On July 14 I sent a email with my Concerns to the Associate Warden Mr. Dewayne Hendrix about attending the prayer after the Completion of Ramadan (Eid prayer) and I received a disturbing response (See exhibit D).

Dewayne Hendrix - Denied my First Amendment right for the free exercise Clause and the Religious Freedom Restoration Act by not allowing me to participate in Ramadan, by not allowing me to receive my breakfast meal that is mandatory for a muslim to eat before the morning prayer and by not allowing me to attend Jumu'ah services in the Unit to where it was being held because I did not move from my Unit, I was not allowed to pray the morning prayer in the Chapel with other muslims because they were denied access as well, I was not allowed to shop from the Ramadan list in the Commissary except for once and I was not allowed to receive dates to break my fast and I was forced to hold my food that was served at regular meal times in a plastic bag soaking in 190° water and it is prison rules that we are not supposed to hold meals so my meals could have been thrown away anytime at an officer's discretion. (See exhibit E)

A. Cruz - Captain Cruz Denied my first amendment right for the free exercise Clause and the Religious Freedom Restoration Act when I was not allowed to participate in Ramadan the Holy month when muslims fast for 29 or 30 days. Captain Cruz stated he did not want anyone moving from

units and that microwaves would be provided for Muslims to heat up their food after the breaking of the fast. Soon after everything changed and whoever did not move units were removed off the list and not allowed to get a breakfast that must be eaten before prayer. And I was not allowed to attend Jumrah services during Ramadan. These acts were arbitrary and capricious and it also violated the Religious Freedom Restoration Act and the First Amendment's Free exercise Clause.

Marcus Branch - Violated my Equal Protection Clause of the United States Constitution when he treated me and fellow Muslims differently during the Jewish holidays and celebrations. The Jews that did not move to other units still received their meals and were allowed to attend their services and prayer. He also denied my right to the Religious Freedom Restoration Act when he removed me off of the Ramadan participation list and I was not allowed to participate in Ramadan.

V. Relief:

State what relief you are seeking if you prevail on your complaint.

I am seeking \$25,000 in Money damages and also that the institution buy Microwaves for all units so that NO religion has to go through what myself and other muslims and other denominations had to go through this year and last year

I declare under penalty of perjury that on July 28, 2015, I delivered this  
(Date)  
complaint to prison authorities to be mailed to the United States District Court for the Eastern  
District of New York.

Signed this 28<sup>rd</sup> day of July, 20 15. I declare under penalty of  
perjury that the foregoing is true and correct.

Abdul Rahim Howard  
Signature of Plaintiff

Metropolitan Detention Center  
Name of Prison Facility

P.O. BOX 329 002  
Brooklyn, N.Y. 11232

Address

72346-053  
Prisoner ID#

# SWORN AFFIDAVIT

I Abdul Rahim Howard Declare under the Penalties of perjury pursuant to 28 U.S.C. 1746 that my Statements are true to the best of my abilities.

In June my self and other muslims in my housing unit spoke with a muslim Chaplain that said he was only at the institution for a couple of days until the original muslim Chaplain would return. We expressed our Concerns about whether or not we would have microwaves and would not be forced to move like last year because they claimed to have no microwaves. The Chaplain explain that Captain A. Cruz stated that he did not want anyone moving to any units that everyone would stay in their own units.

One Wednesday in June at Mainline in which all heads of departments go to the units. I then spoke to Captain A. Cruz face to face to express my Concerns and he stated "no one is moving" I asked about the microwaves and was told he was working on it I then stated "well there should be enough microwaves because they had common fare microwaves (to heat Kosher Meals) on every unit that was removed when they started putting the Kosher meals in the oven. and that I knew if a Correction officer's microwave would to break it would be replaced so I knew there was microwaves the Captain stated he's working on it.

A Couple of days before Ramadan Someone came to the Units stating we had to move in order to participate in Ramadan I stated Captain Cruz said no one was going to move he mentioned something about microwaves & stated "How is there no microwaves they get a budget for religious services and they knew Ramadan would be coming they could of bought microwaves even though I know they have microwaves" he then stated he would be back in a couple of days and whoever didn't move would not be allowed to participate. Myself and four other muslims did not move, we received one break fast bag for the first night and after that we received nothing and was not allowed out in the morning to pray as well. We fasted anyway because it is mandatory except for Certain Circumstances.

I then emailed Captain A. Cruz and this started my quest to not be discriminated against because I did not move and by me not moving I was denied my right pursuant to the Free Exercise Clause of the First Amendment, My Religious Freedom Restoration Act was Violated and my rights to the Equal Protection Clause was Violated because myself and other muslims did not move and received nothing but when the Jews Holiday came no one had to move this year and last year when they didn't move they still received their meals. NO other Religion was forced to move to Celebrate any of their Holidays or Festivals.

Abdullahi H. H. H.

Exhibit A

TRULINCS 72346053 - HOWARD, ABDUL RAHIM - Unit: BRO-I-A

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FROM: 72346053

TO: Correctional Services/Captain

SUBJECT: \*\*\*Request to Staff\*\*\* HOWARD, ABDUL, Reg# 72346053, BRO-I-A

DATE: 06/12/2015 02:01:37 PM

To: A. Cruz

Inmate Work Assignment: N/A

Dear Sir,

I am sending you this pertaining to Ramadan. I was told that you didn't want anyone moving to other units for Ramadan and when i spoke to you at mainline you told me the same thing and then someone came to the units saying we had to move in order to participate in Ramadan. I believe it was because of the microwave situations, now i can't say anything to that but there are only 13 microwaves that would be needed and they are 2 for the 4th floor, 3 for 5, 6, and 7 and then two for 8 because G41 and K81 have microwaves. You have a lot of people that would lose their jobs if they move and that is only a source of income for some of these people others are fighting their case and it would be a burden to move and lastly last year when people moved they were not moved back to their units. If nothing can be done about the microwaves the people that didn't move won't be allowed to even wake up in the morning to pray and it feels as if were being told either move or have a bad Ramadan. I didn't move last year and had to use my own resources because they didn't send us up any food either and whatever we made to eat we had to heat it up in 190 inside plastic bags. I am asking that if the microwaves can't be given to every unit at least can we be allowed to come out in the morning before sunrise to pray?

Exhibit B

TRULINCS 72346053 - HOWARD, ABDUL RAHIM - Unit: BRO-I-A

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FROM: Religious Services  
TO: 72346053  
SUBJECT: RE:\*\*\*Inmate to Staff Message\*\*\*  
DATE: 06/25/2015 07:07:01 PM

You were notified that I63 was the unit identified for Ramadan observance and you elected not to move therefore refusing participation. You chose comfort over the accommodation provided for all Muslims. Ramadan is about self sacrifice not entitlement. Therefore, no accommodation will be afforded to you.

>>> ~^!"HOWARD, ~^!ABDUL RAHIM" <72346053@inmatemessage.com> 6/25/2015 3:24 PM >>>  
To: Chaplain  
Inmate Work Assignment: N/A

I am writing this email to ask a question. I would like to know that being that i did not move to unit I-63 and even though i am still fasting am i allowed to buy the muslim oils and meals that are on the Ramadan list? Because even though i did not move i am still fasting because it is prescribed for me to do so and being that i am Muslim i believe that i should be entitled to buy the items that are on sale for Ramadan and i also feel that i should be allowed to attend the Eid Prayer after Ramadan is completed.

Exhibit C

TRULINCS 72346053 - HOWARD, ABDUL RAHIM - Unit: BRO-I-A

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FROM: Religious Services

TO: 72346053

SUBJECT: RE:\*\*\*Inmate to Staff Message\*\*\*

DATE: 06/26/2015 10:54:32 AM

You were afforded an opportunity to move and the Muslims in every housing unit on the west side were told what was expected of them to observe Ramadan. Making Haj to Mecca is a far longer journey than moving 100 feet to be with other Muslims to observe Ramadan. So again speaking with you or other Muslims who put themselves above the true meaning of observing Ramadan will not change the outcome of the institutions decision.

>>> ~^!"HOWARD, ~^!ABDUL RAHIM" <72346053@inmatemessage.com> 6/26/2015 10:50 AM >>>

To: Chaplian

Inmate Work Assignment: N/A

I am emailing with a response to your email to me yesterday.

#1 It is not about comfort it is about discomfort it was either i discomfort myself or i can't participate in what is mandatory for me to do it is not about accomodation if it was we would have microwaves in every unit and even if we chose not to move we would of still been allowed our food and Sahoor bag(breakfast) that's accomodation.

#2 Your right Ramadan is about self sacrafice that's why we are still fasting even though you choose not to give us food or let us buy from the Ramadan list because it is mandatory (see Quran surah 2 ayat 183-185).

#3We should be allowed to entitlement the jews had theirs we are no different and whenever they did not move their food was still brought to them in those units so were actually talking about the Equal Protection Clause of the United States.

Is it possible that you could come talk to the Muslims here in I-61 to hear our concerns?

Exhibit D

TRULINCS 72346053 - HOWARD, ABDUL RAHIM - Unit: BRO-I-A

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FROM: AW Operations  
TO: 72346053  
SUBJECT: RE:\*\*\*Inmate to Staff Message\*\*\*  
DATE: 07/14/2015 02:17:02 PM

If you did not move to the appropriate unit for Ramadan observance, you will not be included for the Eid prayer. The participation memorandum was specific in stating, "by refusing to move to the appropriate unit, you are not authorized to participate." Although you may have exercised your right to participate in Ramadan in an unofficial capacity, we only made accommodations for those who moved to the appropriate unit for observance.

>>> ~^!"HOWARD, ~^!ABDUL RAHIM" <72346053@inmatemessage.com> 7/12/2015 1:59 PM >>>  
To: Mr. Dewayne Hendrix  
Inmate Work Assignment: N/A

I am writing this is email to discuss the Eid Prayer even though i did not move to unit I-63 but i am still fasting and has been since Ramadan started i would like to know will i be able to attend the Eid Prayer and get a meal that will be served. I believe it was wrong for the Muslims that did not move to not be allowed to participate in Ramadan and was not given meals and was not given the breakfast bag and not allowed to pray in the Chapel in the early morning. It is my hopes that i will be allowed to participate in the Eid Prayer because i did fast and it is part of my religion to celebrate after the completion of Ramadan.

Thank You.

Exhibit E



U. S. Department of Justice

Federal Bureau of Prisons  
Metropolitan Detention Center  
Brooklyn, New York

May 27, 2015

MEMORANDUM TO INMATE POPULATION

FROM: *M. A. Hendrix*  
Dewayne Hendrix, Associate Warden, Operations

SUBJECT: Ramadan 2015

The projected start of Ramadan will be sundown June 17, 2015, with the first day of fasting on June 18, 2015. The Bureau will consult with leaders of the Islamic community in determining the start of Ramadan accommodation. Ramadan is 29 to 30 days of obligatory fasting and extra prayers for Muslims. Other Muslim traditions, including Nation of Islam and Moorish Science Temple, may also participate in Ramadan observances.

Inmates wishing to participate in the observance of Ramadan are required to sign up 30 days prior to the start of Ramadan. Only those inmates who arrived to the institution after this deadline should make a request to religious services, the chaplain will notify them within 24 hours of receiving the request.

**Accommodation**

Unit officers in the Ramadan observance designated units will be provided with a list of **approved** Ramadan participants from Food Services. Food Services will provide participants with a bagged breakfast for the following pre-dawn meal starting at dinner June 18, 2015. Common Fare participants will receive lunch and dinner meals at fast breaking time. Mainline participants will receive select food items from the mainline to break their fast.

Designated Units A, E, G43, H53, I63, J73, K81 and K82 will receive dinner carts for Ramadan participants. Unit kitchens will be opened at 8:00pm to retrieve meals for distribution. Religious Services will provide each **approved** Ramadan participant with Pitted Dates for the breaking of the daily fast. The morning breakfast meal must be eaten before they will perform their (Fajr) or Morning Prayer. Additionally, lunch and dinner meals will be combined and delivered in the evening by food service.

Inmates in all other units who are fasting for Ramadan are designated as participating in a personal fast. All meals for those individuals will be sent at normal meal times.

#### **Pitted Dates**

One cup will be given at the beginning of Ramadan to carry the inmate to the end of Ramadan. It is the responsibility of the inmate to store pitted dates in their cells or sleeping area. Each date cup consists of approximately 33-35 pitted dates. Inmates who **refuse** to move to the Ramadan designated housing units **will not** be provided pitted dates. Any inmate wishing to be removed from the Ramadan participation list must notify Religious Services.

#### **Time and Space Accommodation**

Ramadan participants in designated units A, E, G43, H53, I63, J73, K81 and K82, will have daily access to the unit religious services area in the housing unit for prayer and the reading of the Qur'an. Ramadan participants from the **approved list of participants** will have daily access to the unit religious services area in the housing unit for prayer and the reading of the Qur'an. Inmates who are not on the approved Ramadan participant list, or who have willfully refused to move to the designated housing unit for Ramadan observance; **are not** authorized to congregate in the Religious room for group prayer or any other group activity. In the mornings, the daily access will be from 5:00 am until 8:00am. In the evenings, access will be after the 4:00pm count until the 10:00pm count. The only exception to this access would be specially scheduled religious services. The unit officers are to ensure access to these areas.

#### **Microwaves Procedures**

##### **East Building**

In addition to the microwaves in the Cadre unit, one microwave will be delivered to 3 North. The Female units will use the microwaves in their housing unit. During the 10:00 p.m. count the unit officer will secure the microwave back to the unit officers' office.

##### **West Building**

There will be microwaves for the West side Ramadan participants to use to heat their meals. The microwave will be delivered and placed in the unit officer station. Only the inmates whose names appear on the **approved** Ramadan list will be permitted to use the microwaves. If possible, the microwaves should be placed in the religious services room and made available from 8:00 p.m., until 10:00 p.m. At 10:00 p.m., the microwave should be returned to the officers' station.

**SHU**

The SHU Lieutenant in both the East side and West side will use the Food Service microwave oven located in SHU to heat the meals of the **approved** Ramadan participants in SHU.

**Special Services**

Accommodations will be made for the Night of Determination and the Eid-ul-Fitr. Information will be forthcoming.